



**Presenter:**  
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## **Multi-State Guardianships:**

# **What every guardian should know before crossing the state line**

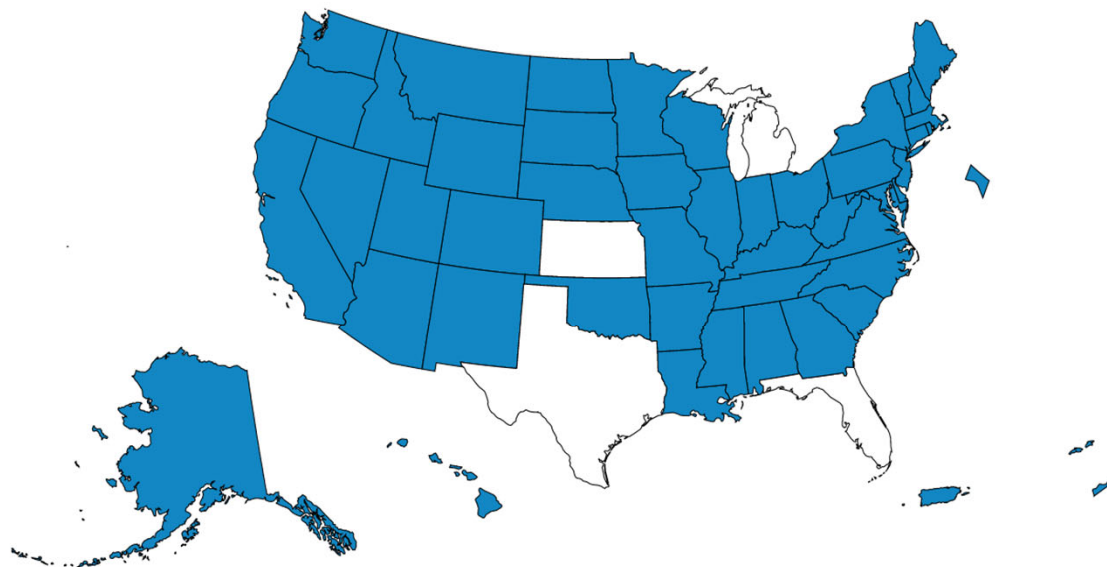




## What is the ULC?

- **Uniform Law Commission (ULC)**
  - **Non-profit, non-partisan organization formed in 1892.**
  - **400+ Commissioners are volunteer attorneys appointed by the states.**
  - **ULC drafts model state legislation on topics where uniformity among the states is desirable and practical.**
  - **Drafting meetings throughout the year are open to any interested party – get involved!**
  - **Legislative staff based in Chicago works to enact uniform laws in every state.**
  - **[www.uniformlaws.org](http://www.uniformlaws.org)**

# Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act



Enactment Map • Enacted

- **“UAGPPJA” (You-uh-GAP-juh)**
- **Enacted in 46 states, plus DC, Puerto Rico, and the US Virgin Islands**
- **NOT enacted in Florida, Kansas, Michigan, and Texas**
- **Solves three problems with multi-state guardianships:**
  - **Initial Jurisdiction**
  - **Transfer**
  - **Out-of-state authority**

# Interstate Transfer of Guardianship



- For use when the individual subject to guardianship is **PERMANENTLY** moving to a new state
- The court that originally ordered the guardianship can no longer effectively monitor the ongoing proceeding
- Before UAGPPJA: New guardianship petition required
- Under UAGPPJA Article 3: Simplified process for transfer:
  - No need to prove incapacity
  - No need to justify the choice of guardian/conservator if qualified to serve
  - No hearing required unless requested by an interested party or initiated by the court
- See N.J.S.A. 3B:12B-17 & 18

# Interstate Transfer of Guardianship



## *4-step process for transfer:*

- 1. Petition the court currently overseeing the guardianship for transfer**
  - a. Requires notice to all persons who would be entitled to notice for the appointment of a guardian under state law**
  - b. No hearing unless requested**
  - c. Court must issue a provisional order granting transfer if it finds:**
    - i. The individual subject to guardianship is physically present in the other state or reasonably expected to move there; and**
    - ii. No objection has been made, or any objector cannot establish that the transfer would be contrary to the interests of the individual subject to guardianship; and**
    - iii. Plans for care and services in the other state are reasonable and sufficient**

# Interstate Transfer of Guardianship



## *4-step process for transfer:*

- 2. Petition the court in the state where the individual is moving**
  - a. Requires notice to all persons who would be entitled to notice for the appointment of a guardian under state law of *both* states**
  - b. No hearing unless requested**
  - c. Court must issue a provisional order accepting transfer unless:**
    - i. an objection is made and the objector establishes that the transfer would be contrary to the interests of the individual subject to guardianship; or**
    - ii. The guardian or conservator is ineligible for appointment in the new state**

# Interstate Transfer of Guardianship



## *4-step process for transfer:*

- 3. The court of the transferring state must issue a final order confirming the transfer and terminating the guardianship upon receipt of:**
  - a. A provisional order accepting transfer from the court to which the proceeding is to be transferred; and**
  - b. Any documents required to terminate guardianship in the first state**

# Interstate Transfer of Guardianship



## *4-step process for transfer:*

- 4. The court of the accepting state must issue a final order confirming the transfer appointing the guardian upon receipt of a final order from the court transferring the proceeding**
  - a. The court must recognize the guardianship from the other state, including the determination of incapacity and the appointment of the specific guardian**
  - b. The court must determine whether the terms of the guardianship need to be modified to comply with state law**



# Registering Guardianship in Another State



- For use when the individual subject to guardianship is TEMPORARILY present in another state
- Common scenarios:
  - Individual subject to guardianship is admitted to a hospital or care facility in another state
  - Individual subject to guardianship is travelling with the guardian
  - “Snowbirds” who live part of the year in another state
  - Financial transaction involving property located in another state
- See N.J.S.A. 3B:12B-19

# Registering Guardianship in Another State



## *2-step process for registration:*

- 1. Notify the court that issued the guardianship orders of the intent to register the orders in a foreign jurisdiction**
  - a. Notification is necessary so the court can perform its ongoing oversight as necessary**
  - b. Prevents abuse of the registration process when a transfer is required**
- 2. Register the certified copies of the guardianship order and any letters of office by filing as a foreign judgment in the appropriate court**

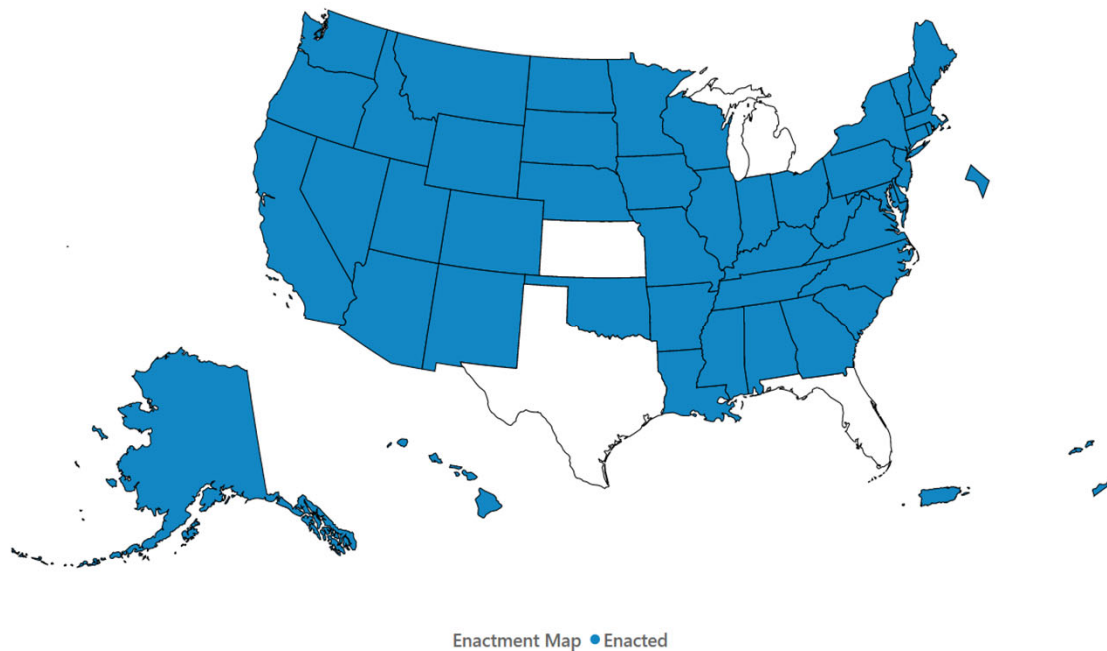
# Registering Guardianship in Another State



## ***Effect of registration:***

- 1. The guardian may exercise in the state of registration all powers authorized in the guardianship orders except as prohibited in the state of registration and subject to any restrictions imposed upon nonresident parties**
- 2. A court in the state of registration may enforce the terms of the guardianship as necessary**

# Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act



## ■ Tips for using UAGPPJA:

- Review each state's statute for any non-uniform provisions
  - Transfer: UAGPPJA Article 3
  - Registration: UAGPPJA Article 4
- Do not assume the court is familiar with UAGPPJA procedures
- Cite to the specific state statute that adopts the UAGPPJA procedures
- Consider including a copy of the uniform act and official comments with any court filing

# Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act



**ANY**  
**QUESTIONS?**

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